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In the High Court of Punjab & Haryana at Chandigarh.

Date of decision : 9.1.2007.

Major Singh .... Petitioner

vs

Mohinder Singh and others .....Respondents.

Coram Hon'ble Ms. Justice Kiran Anand Lall.

Present: Mr.Anil Chawla,Advocate,for the petitioner.

Kiran Anand Lall, J.

The petitioner is aggrieved against the order of the trial court, permitting the respondent-plaintiff to convert his suit for permanent injunction into one for specific performance of contract, by amending his plaint to that effect.

According to the learned counsel, since the suit for permanent injunction restraining the petitioner from alienating the land in favour of any person except the respondent-plaintiff was filed on the basis of the agreement to sell dated 29.4.2005, without seeking any further relief, he could not be allowed, at a later stage, to claim the relief of specific performance of contract on the basis of the same agreement.

The petition lacks merit altogether. When the suit for permanent injunction was filed (on 27.4.2006), cause of action for claiming the relief of specific performance had not accrued to the respondent-plaintiff, and as such, he could not have claimed any such relief at that time. The date stipulated in the agreement, for execution of the sale-deed, was 7.6.2006. It was only when the petitioner failed to execute the sale-deed on that date, that this cause of action accrued to him (respondent) and he

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converted the suit for permanent injunction into one for specific performance, by amending the plaint, under the orders of the court. Nothing wrong can, therefore, be found with the order passed by the trial court, in this regard.

Dismissed.

9.1.2007. (Kiran Anand Lall)
vs. Judge.